IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3961 OF 2001

Shantaram Sitaram Mainkar
and Ors. .. Petitioners

Versus

Jagannath Pundalik Raorane
and Anr. .. Respondents

Mr.A.S.Khandeparkar for petitioners
Mr.A.L.Desai for respondent No.1.

CORAM : S.C.DHARMADHIKARI, J.

DATE : DECEMBER 16, 2004.

P.C.

. This is a petition under Article 227 of the Constitution. Petitioners are challenging

the order passed by the Additional Commissioner, Konkan Division in Revisional jurisdiction in R.T.S. proceedings.

2. Grievance of the petitioners who claim to be tenants in respect of land bearing S.No.45 Hissa Nos. 1 and 2 and S.No.79 Hissa Nos. 1 and 2 is that mutation entry No.49 was certified in the name of the predecessor in title of the respondents herein. It is their grievance that the said mutation entry was certified behind their back. They relied upon an Order dated 29th November 1960 of the then Collector remanding the matter back and permitting the parties to lead evidence. They therefore, submit that the exercise carried out by the Mamlatdar pertaining to mutation entry No.583 was in accordance with law. Consequently, the S.D.O. was in error in allowing the appeal preferred by respondent No.1.

3. In my view, the finding pertaining to

mutation entry does not decide issues of Title between parties and it is always open to them to assert the same in appropriate proceedings, including a civil suit. Since mutation entries do not decide the issue of title, civil court is bound to apply its mind independently and decide the same in accordance with law. Leaving all contentions open of both sides, insofar as issue of title is concerned, writ petition is disposed of. All concerned to act on an authenticated copy of this order.

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